

Case Summary

Appellant-Defendant Audrain Jones (“Jones”) appeals the aggregate one-hundred-thirty-one-year sentence imposed following his pleas of guilty to two counts of Kidnapping, Class A felonies,¹ two counts of Rape, one as a Class A felony and one as a Class B felony,² five counts of Criminal Deviate Conduct, four as a Class A felony, and one as a Class B felony,³ four counts of Criminal Confinement, two as Class B felonies and two as Class D felonies,⁴ one count of Carjacking, a Class B felony,⁵ two counts of Robbery, as Class B felonies,⁶ one count of Intimidation, as a Class C felony,⁷ and one count of Battery, as a Class A misdemeanor.⁸ We affirm.

Issue

Jones presents a single issue for review: whether his sentence is inappropriate.

Facts and Procedural History

On April 19, 2006, at approximately 6:30 p.m., K.M. entered her vehicle in the parking lot of an elementary school in Indianapolis. Jones got into the back seat, pointed a gun at K.M. and instructed her to drive to a residence in the vicinity. In the residential driveway, Jones forced K.M. to perform oral sex, and inserted his fingers into her vagina. Jones dumped out the contents of K.M.’s purse and ordered her to drive to a bank. Jones

¹ Ind. Code § 35-42-3-2.

² Ind. Code § 35-42-4-1.

³ Ind. Code § 35-42-4-2.

⁴ Ind. Code § 35-42-3-3.

⁵ Ind. Code § 35-42-5-2.

⁶ Ind. Code § 35-42-5-1.

⁷ Ind. Code § 35-45-2-1.

⁸ Ind. Code § 35-42-2-1.

forced K.M. to withdraw \$400 from her bank account by using an ATM. Jones then compelled K.M. to drive to the parking lot of Westlane School, where Jones raped K.M. and forced her to submit to criminal deviate conduct. Jones took K.M.'s driver's license, and stated that he knew where she lived, and would find her if she reported the crimes.

On February 26, 2007, S.S. entered her vehicle in a parking garage in Indianapolis. At the same time, Jones got into the passenger's side and told S.S. that he had a gun. Jones rifled through S.S.'s purse, taking cash, credit cards, and an ATM card. He forced S.S. to drive to a bank and withdraw \$400 from an ATM. Jones then compelled S.S. to drive to an alley and take off her clothes. When S.S. cried, protested, and attempted to escape, Jones punched her in the face and jaw, chipping her tooth. Jones forced S.S. into the back seat of her vehicle, where he raped her and subjected her to criminal deviate conduct.

DNA results, fingerprints, and eyewitness statements linked Jones to the crimes against K.M. and S.S., and the State charged him with those crimes on March 6, 2007. On September 14, 2007, Jones pleaded guilty as charged. On October 26, 2007, the trial court sentenced Jones as follows:

Cause No. 49G01-0703-FA-037483 (crimes against K.M.):

Count I, Kidnapping (Class A felony)	30 years
Count II, Rape (Class A felony)	30 years
Count III, Criminal Deviate Conduct (A)	30 years
Count IV, Criminal Deviate Conduct (A)	30 years
Count V, Criminal Deviate Conduct (A)	30 years
Count VI, Criminal Confinement (B)	10 years
Count VII, Criminal Confinement	Vacated
Count VIII, Robbery (Class B felony)	10 years

Count IX, Intimidation (Class C felony) 4 years
Count X, Criminal Deviate Conduct (A) 30 years

(Counts I, IV and VIII consecutive = 70 years)

Cause No. 49G01-0703-FA-036329 (crimes against S.S.):

Count I, Kidnapping (Class A felony) 30 years
Count II, Rape (Class B felony) 10 years
Count III, Criminal Deviate Conduct (B) 10 years
Count IV, Robbery (Class B felony) 10 years
Count V, Carjacking Vacated
Count VI, Criminal Confinement Vacated
Count VII, Criminal Confinement Vacated
Count VIII, Battery (A Misdemeanor) 1 year

(All Counts consecutive = 61 years)

(App. 101-03.) The sentences for crimes against K.M. were consecutive to the sentences for crimes against S.S., providing for an aggregate sentence of one hundred and thirty-one years.

Jones appeals.

Discussion and Decision

Jones was given advisory terms for each of his felony convictions,⁹ but was ordered to serve some terms consecutive to others. He requests that we reduce his aggregate sentence in accordance with Indiana Appellate Rule 7(B), which provides that we “may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender.” In particular, Jones emphasizes his youth and troubled childhood.

⁹ The advisory sentences for Class A, Class B, and Class C felonies are thirty, ten, and four years, respectively. Indiana Code Section 35-50-2-4 to -6. Indiana Code Section 35-50-3-2 provides that a person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one year.

The nature of the offenses is that Jones abducted women at their workplaces by forcing his way into their vehicles and holding them at gunpoint. He compelled his victims to drive to ATMs and withdraw their funds. He also forced his victims to submit to multiple sexual assaults. He repeatedly punched S.S., who tried to escape. There is nothing with regard to the nature of the offenses that militates toward a mitigated sentence.

As to the character of the offender, Jones began to commit delinquent acts at age ten. In June of 1998, he committed an act that would be theft if committed by an adult. In October of 1998, he committed acts that would be battery and sexual battery if committed by an adult. In July of 2003, he committed acts that would be burglary and theft if committed by an adult. In April of 2004, he broke into a school, an act that would be burglary if committed by an adult. He attacked K.M. only three months after being released from the Indiana Department of Correction.

It is clear that Jones had a troubled childhood. His father was imprisoned for several years. His mother, claiming an inability to control Jones, allowed him to live with a grandmother and with his father after he was released from prison. Allegedly, Jones was beaten by his father and exposed to his father's drug use and drug dealing. Nevertheless, a defendant who presents evidence of a troubled childhood is not automatically entitled to a reduction in his or her sentence. Page v. State, 615 N.E.2d 894, 896 (Ind. 1993). This is also true for the fact that a defendant is of a young age. Gross v. State, 769 N.E.2d 1136, 1141 n.4 (Ind. 2002).

Jones decided to plead guilty, which spared the victims a trial. A guilty plea demonstrates a defendant's acceptance of responsibility for the crime and at least partially confirms the mitigating evidence regarding his character. Cotto v. State, 829 N.E.2d 520, 525 (Ind. 2005). Indiana courts have recognized that a defendant who pleads guilty deserves to have mitigating weight extended to the guilty plea in return, but it is not automatically a significant mitigating factor. Davis v. State, 851 N.E.2d 1264, 1268 n.5 (Ind. Ct. App. 2006), trans. denied. Here, the evidence against Jones was substantial, including DNA results, fingerprint analysis, and eyewitness identifications. His decision to plea guilty may well have been a pragmatic decision.

In sum, the nature of the offenses and the character of the offender do not suggest that the advisory sentences should be reduced. Furthermore, the fact that there were multiple victims and multiple offenses against each victim supports the imposition of consecutive sentences. As our Supreme Court has observed, "consecutive sentences seem necessary to vindicate the fact that there were separate harms and separate acts against more than one person." Serino v. State, 798 N.E.2d 852, 857 (Ind. 2003).

Jones has not persuaded us that his sentence is inappropriate.

Affirmed.

FRIEDLANDER, J., and KIRSCH, J., concur.